

(G.C.P.)J 455 (5,00,000)-11.2001)

Spl-H.C.,A.S.,C.D.,78e

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.5105 OF 2005

Office Notes, Office Memoranda
of Coram, appearances, Court's
order or directions and
Registrar's order.

Court's or Judge's orders

Shri R.G.Jagtap for the petitioner.

Shri C.R.Sonawane, AGP for the respondent
Nos.2 to 4.

None for the respondent Nos.1 and 5.

CORAM: R.M.S.KHANDEPARKAR
&
NARESH H.PATIL, JJ

DATED: 29th August, 2006.

P.C.

1. Heard. Rule. By consent, the rule
made returnable forthwith.

2. The learned advocate for the
petitioner fairly conceded that in view of
the fact that the petitioner retired from
the services when the School was unaided
school, the question of the petitioner's
claiming pension does not arise, and
therefore, the petitioner is not pressing
for the relief claimed in the clause (b) of

paragraph 15 of the petition.

3. In the circumstances, the only grievance which remains to be considered relates to the claim for gratuity amount. In that regard, the attention is drawn to the unreported decision of this Court in the matter of **Murlidhar Shankar Sumant & Ors. v. The Education Officer & Ors.**, in the Writ Petition No.4808 of 1988 delivered on 23rd March, 2001 along with the matters in Writ Petition Nos.1967 of 1994 and 358 of 1994 wherein this Court had held that irrespective of the fact that the School is unaided, the teachers would be entitled to claim gratuity amount.

4. The learned AGP while referring to the affidavit in reply filed by Shri Chavan Rajkumar Nathuram on 23rd June, 2006 fairly submitted that the law in this point being well settled, the petitioner would be entitled for gratuity amount. Since there is no dispute on the point that the petitioner would be entitled for the gratuity amount in terms of Sections 7 and 8 of Payment of Gratuity Act, 1972 as has been clearly stated in the said affidavit, the

respondents shall take appropriate decision in that regard on the basis of the copy of the Writ Petition which shall be treated as representation for the said claim. The needful shall be done within a period of four months from today. The rule is made absolute accordingly with no order as to costs.

(R.M.S.KHANDEPARKAR, J)

(NARESH H. PATIL, J)